

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,  
RESPONDENT  
vs.**

**RYAN A. WHITES,  
APPELLANT**

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DOCKET NUMBER WD75236

DATE: JUNE 25, 2013

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Appeal from:

The Circuit Court of Saline County, Missouri  
The Honorable Dennis A. Rolf, Judge

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Appellate Judges:

Division Three: Joseph M. Ellis, P.J., Lisa White Hardwick and Cynthia L. Martin, JJ.

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Attorneys:

Shaun Mackelprang, for Respondent

Alexa I. Pearson, for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT**

**v.**

**RYAN A. WHITES, APPELLANT**

WD75236

Saline County, Missouri

Before Division Three Judges: Joseph M. Ellis, P.J., Lisa White Hardwick and Cynthia L. Martin, JJ.

Ryan Whites appeals from his conviction of one count of possession of a controlled substance with the intent to distribute, § 195.211. Appellant was sentenced as a prior and persistent offender to a term of eighteen years imprisonment. The 613.34 grams of marijuana Appellant was charged with possessing was found inside a backpack setting in the bed of a truck owned and driven by David Parker in which Appellant was a passenger.

**REVERSED.**

**Division Three holds:**

- (1) Because Appellant did not have exclusive control over the truck, the State was required to present additional incriminating evidence in order to prove knowledge and control sufficient to support a finding of possession of a controlled substance.
- (2) Under the totality of the circumstances presented in this case, the location of the backpack sitting upright in the truck bed behind Appellant, the strong odor of marijuana noted by the arresting officers, and the \$1,346.00 found in Appellant's wallet were not sufficient to prove Appellant's control over the marijuana found in the backpack.
- (3) While the odor of marijuana could support an inference that Appellant was aware of that marijuana was present somewhere in the truck, knowledge of the presence of a controlled substance alone is insufficient to sustain a conviction based on possession, and the State must present evidence establishing that the defendant exercised control over the controlled substance.
- (4) Appellant's mere presence in the truck in close proximity to the marijuana in a position that a passenger would typically place something in the truck bed

did not establish his control over the marijuana without additional incriminating evidence.

(5) Appellant's possession of \$1,346.00 in cash in his wallet did not allow for a reasonable inference that Appellant had exercised control over the marijuana found in the car where there was no evidence of drug sales having recently occurred, the marijuana was found in bulk and no small bags or containers typically used for distribution of marijuana were found in the truck, and the record does not reflect that the denomination of the cash found on Appellant was in amounts typically used in drug transactions.

Opinion by Joseph M. Ellis, Judge

Date: JUNE 25, 2013

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